

## All Construction in most San Francisco Bay Area Counties May Continue, Resume, or Commence Starting May 4, 2020, under Stringent or More Stringent Safety Protocols.

On April 29, 2020, six bay area counties of [Alameda](#), [Contra Costa](#), [Marin](#), [San Francisco](#), [San Mateo](#), and [Santa Clara](#) extended their shelter-in-place orders from midnight on May 3 to Midnight on May 31, 2020, unless otherwise amended later. A helpful executive summary of the changes is found here: [Executive Summary of the May 4, 2020 Shelter Order of Marin County](#).

Under the new Orders, all construction projects may continue, resume, or commence, because all construction is deemed “Essential Business”. However, to be allowed to continue, construction sites must comply with the Construction Project Safety Protocols issued as part of the Order in Appendixes B-1 and B-2. These protocols supersede the COVID-19 Construction Field Safety Guidelines applicable under earlier Orders and the Social Distancing Protocols in the new Order.

The challenge will be for project stakeholders to comply with these protocols. Both sets are stringent, with the protocols for large projects being even more so. [Appendix B-1](#) is for Small Construction Projects defined as residential projects of 10 units or fewer, commercial projects of 20,000 square feet of floor area or less, and mixed-use projects that meet both requirements. [Appendix B-2](#) is for Large Construction Projects, defined as residential projects of more than 10 units, commercial projects of more than 20,000 square feet of floor area or less, and for Essential Infrastructure projects requiring five or more workers on the jobsite at any one time.

The cost of complying with these protocols—in labor, materials, and impacts—will not be insignificant. All project parties will want to account for these costs and evaluate who should bear them. Smith Currie has presented articles and webinars on these issues, and readers are invited to explore the resources at Smith Currie’s [website section devoted to Covid-19 issues](#).

### **Overlapping Rules**

Contractors will need to download and review the protocols for the county where each project is located and review them carefully, to ensure to pick up any county-specific changes. Generally, however, the protocols discussed below will be common among the six coordinating counties. Please note, however, that each Order states: “Where a conflict exists between this Order and any state public health order related to the COVID-19 pandemic, the most restrictive provision controls.”

Note further, that on April 24, 2020, Cal OSHA issued its [COVID-19 Infection Prevention in Construction](#), the preface of which states:

California employers are required to establish and implement an Injury and Illness Prevention Program (IIPP) to protect employees from all worksite hazards, including infectious diseases. This guidance does

not impose any new legal obligations. It contains information for construction employers on ways to update their IIPPs to include information on employee training and preventing the spread of coronavirus (SARS-CoV-2), the virus that causes COVID-19, at construction sites. This is mandatory in most California workplaces since COVID-19 is widespread in the community.

Unfortunately, even the Large Project Protocols would not satisfy all of the Cal OSHA requirements, which provide many details not found in the Protocols. Therefore, contractors will want to modify their protocols to include the more stringent Cal OSHA requirements. Smith Currie is working on modified Small and Large Project Protocols and will provide them as soon as practicable.

### **Small Project Protocols (“SPP”)**

In summary form, the new SPPs require contractors to:

1. Incorporate any more stringent legal requirement, such as Cal OSHA rules.
2. Designate a COVID-19 supervisor who must be present on the construction site at all times during construction activities. This supervisor may be an on-site worker who is designated to serve in this role.
  - a. The COVID-19 supervisor must review this SCP Protocol with all workers and visitors to the construction site.
3. Implement daily screening of arriving staff to ensure that potentially infected staff do not enter the construction site. When workers enter and leave the jobsite the same day, establish a cleaning and decontamination protocol prior to the workers entering and exiting the jobsite. Post the daily screening protocol at all entrances and exits to the jobsite. More information on screening can be found online at: <https://www.cdc.gov/coronavirus/2019-ncov/community/index.html>.
4. Practice social distancing by maintaining a minimum six-foot distance between workers at all times, except as strictly necessary to carry out a task associated with the construction project.
5. Occupied residential unit: Separate work areas must be sealed off from the remainder of the unit with physical barriers such as plastic sheeting or closed doors sealed with tape to the extent feasible. If possible, workers must access the work area from an alternative entry/exit door to the entry/exit door used by residents. Available windows and exhaust fans must be used to ventilate the work area. If residents have access to the work area between workdays, the work area must be cleaned and sanitized at the beginning and at the end of workdays. Every effort must be taken to minimize contact between workers and residents, including maintaining a minimum of six feet of social distancing at all times.
6. Common areas of an occupied residential or commercial building or a mixed-use building: Separate work areas must be sealed off from the rest of the common areas with physical barriers such as plastic sheeting or closed doors sealed with tape to the extent feasible. If possible, workers must access the work area from an alternative building entry/exit door to the building entry/exit door used by residents or other users of the building. Every effort must be taken to minimize contact between worker and building residents and users, including maintaining a minimum of six feet of social distancing at all times.
7. Prohibit gatherings of any size on the jobsite, including gatherings for breaks or eating, except for meetings regarding compliance with this protocol or as strictly necessary to carry out a task associated with the construction project.

## New SIP Orders for Six SF Bay Area Counties

8. Cal-OSHA requires employers to provide water, which should be provided in single-serve containers. Sharing of any of any food or beverage is strictly prohibited and if sharing is observed, the worker must be sent home for the day.
9. Provide personal protective equipment (PPE) specifically for use in construction, including gloves, goggles, face shields, and face coverings as appropriate for the activity being performed. At no time may a contractor secure or use medical-grade PPE unless required due to the medical nature of a jobsite. Face coverings must be worn in compliance with the Health Officer Order Generally Requiring Members of the Public and Workers to Wear Face Coverings, dated April 17, 2020, or any subsequently issued or amended order.
10. Strictly control “choke points” and “high-risk areas” where workers are unable to maintain six-foot social distancing and prohibit or limit use to ensure that six-foot distance can easily be maintained between individuals.
11. Minimize interactions and maintain social distancing with all site visitors and residents at residential construction sites.
12. Stagger trades as necessary to reduce density and allow for easy maintenance of minimum six-foot separation.
13. Discourage workers from using others’ desks, work tools, and equipment. If more than one worker uses these items, the items must be cleaned and disinfected with disinfectants that are effective against COVID-19 in between use by each new worker. Prohibit sharing of PPE.
14. Ensure adequate hand washing facilities at the jobsite, including portable wash stations or hand sanitizers that are effective against COVID-19 at entrances to the jobsite and in multiple locations dispersed throughout the jobsite as warranted.
15. Clean and sanitize any hand washing facilities, portable wash stations, jobsite restroom areas, or other enclosed spaces daily with disinfectants that are effective against COVID-19. Frequently clean and disinfect all high touch areas, including entry and exit areas, high traffic areas, rest rooms, hand washing areas, high touch surfaces, tools, and equipment
16. Maintain a daily attendance log of all workers and visitors that includes contact information, including name, phone number, address, and email.
17. Post a notice in an area visible to all workers and visitors instructing workers and visitors to do the following:
  - a. Do not touch your face with unwashed hands or with gloves.
  - b. Frequently wash your hands with soap and water for at least 20 seconds or use hand sanitizer with at least 60% alcohol.
  - c. Clean and disinfect frequently touched objects and surfaces such as work stations, keyboards, telephones, handrails, machines, shared tools, elevator control buttons, and doorknobs.
  - d. Cover your mouth and nose when coughing or sneezing, or cough or sneeze into the crook of your arm at your elbow/sleeve.
  - e. Do not enter the jobsite if you have a fever, cough, or other COVID-19 symptoms. If you feel sick, or have been exposed to anyone who is sick, stay at home.
  - f. Constantly observe your work distances in relation to other staff. Maintain the recommended minimum six feet at all times when not wearing the necessary PPE for working in close proximity to another person.

## New SIP Orders for Six SF Bay Area Counties

- g. Do not carpool to and from the jobsite with anyone except members of your own household unit, or as necessary for workers who have no alternative means of transportation.
- h. Do not share phones or PPE.

**Large Project Protocols (“LPP”)**

In addition to more rules and specificity, the LPPs require other postings, training, and specifically-qualified personnel, including a COVID-19 Safety Compliance Officer (SCO) and a COVID-19 Third-Party Jobsite Safety Accountability Supervisor (JSAS).

In summary form, the new LPPs require contractors to adhere to all of the SPP, *plus*:

1. Prepare a new or updated Site-Specific Health and Safety Plan to address COVID-19-related issues, post the Plan on-site at all entrances and exits, and produce a copy of the Plan to County governmental authorities upon request. The Plan must be translated as necessary to ensure that all non-English speaking workers are able to understand the Plan.
2. Provide personal protective equipment (PPE) specifically for use in construction, including gloves, goggles, face shields, and face coverings as appropriate for the activity being performed. At no time may a contractor secure or use medical-grade PPE, unless required due to the medical nature of a job site. Face coverings must be worn in compliance with the Health Officer Order Generally Requiring Members of the Public and Workers to Wear Face Coverings, dated April 17, 2020, or any subsequently issued or amended order.
3. Ensure that employees are trained in the use of PPE. Maintain and make available a log of all PPE training provided to employees and monitor all employees to ensure proper use of the PPE.
4. Implement social distancing requirements including, at minimum:
  - a. Stagger stop- and start-times for shift schedules to reduce the quantity of workers at the jobsite at any one time to the extent feasible.
  - b. Stagger trade-specific work to minimize the quantity of workers at the jobsite at any one time.
5. Implement cleaning and sanitization practices in accordance with the following:
  - a. Frequently clean and sanitize, in accordance with CDC guidelines, all high-traffic and high-touch areas including, at a minimum: meeting areas, jobsite lunch and break areas, entrances and exits to the jobsite, jobsite trailers, hand-washing areas, tools, equipment, jobsite restroom areas, stairs, elevators, and lifts.
  - b. Establish a cleaning and decontamination protocol prior to entry and exit of the jobsite and post the protocol at entrances and exits of jobsite.
  - c. Supply all personnel performing cleaning and sanitization with proper PPE to prevent them from contracting COVID-19. Employees must not share PPE.
  - d. Establish adequate time in the workday to allow for proper cleaning and decontamination including prior to starting at or leaving the jobsite for the day.
6. Implement a COVID-19 community spread reduction plan as part of the Site-Specific Health and Safety Plan that includes, at minimum, the following restrictions and requirements:

## New SIP Orders for Six SF Bay Area Counties

- a. Prohibit all carpooling to and from the jobsite except by workers living within the same household unit, or as necessary for workers who have no alternative means of transportation.
  - b. Cal-OSHA requires employers to provide water, which should be provided in single-serve containers. Prohibit any sharing of any food or beverage and if sharing is observed, the worker must be sent home for the day.
7. Prohibit use of microwaves, water coolers, and other similar shared equipment.
8. Assign a COVID-19 Safety Compliance Officer (SCO) to the jobsite and ensure the SCO's name is posted on the Site-Specific Health and Safety Plan. The SCO must:
  - a. Ensure implementation of all recommended safety and sanitation requirements regarding the COVID-19 virus at the jobsite.
  - b. Compile daily written verification that each jobsite is compliant with the components of this LCP Protocol. Each written verification form must be copied, stored, and made immediately available upon request by any County official.
  - c. Establish a daily screening protocol for arriving staff, to ensure that potentially infected staff do not enter the construction site. If workers leave the jobsite and return the same day, establish a cleaning and decontamination protocol prior to entry and exit of the jobsite. Post the daily screening protocol at all entrances and exit to the jobsite. More information on screening can be found online at: <https://www.cdc.gov/coronavirus/2019-ncov/community/index.html>.
  - d. Conduct daily briefings in person or by teleconference that must cover the following topics:
    - i. New jobsite rules and pre-job site travel restrictions for the prevention of COVID-19 community spread.
    - ii. Review of sanitation and hygiene procedures.
    - iii. Solicitation of worker feedback on improving safety and sanitation.
    - iv. Coordination of construction site daily cleaning/sanitation requirements.
    - v. Conveying updated information regarding COVID-19.
    - vi. Emergency protocols in the event of an exposure or suspected exposure to COVID-19.
  - e. Develop and ensure implementation of a remediation plan to address any non-compliance with this LCP Protocol and post remediation plan at entrance and exit of jobsite during remediation period. The remediation plan must be translated as necessary to ensure that all non-English speaking workers are able to understand the document.
9. The SCO must not permit any construction activity to continue without bringing such activity into compliance with these requirements.
10. Report repeated non-compliance with this LCP Protocol to the appropriate jobsite supervisors and a designated County official.
11. Assign a COVID-19 Third-Party Jobsite Safety Accountability Supervisor (JSAS) for the jobsite, who at a minimum holds an OSHA-30 certificate and first-aid training within the past two years, who must be trained in the protocols herein and verify compliance, including by visual inspection and random interviews with workers, with this LCP Protocol.

## New SIP Orders for Six SF Bay Area Counties

12. Within seven calendar days of each jobsite visit, the JSAS must complete a written assessment identifying any failure to comply with this LCP Protocol. The written assessment must be copied, stored, and, upon request by the County, sent to a designated County official.
13. If the JSAS discovers that a jobsite is not in compliance with this LCP Protocol, the JSAS must work with the SCO to develop and implement a remediation plan.
14. The JSAS must coordinate with the SCO to prohibit continuation of any work activity not in compliance with rules stated herein until addressed and the continuing work is compliant.
15. The remediation plan must be sent to a designated County official within five calendar days of the JSAS's discovery of the failure to comply.
16. In the event of a confirmed case of COVID-19 at any jobsite, the following must take place:
  - a. Immediately remove the infected individual from the jobsite with directions to seek medical care.
  - b. Each location the infected worker was at must be decontaminated and sanitized by an outside vendor certified in hazmat clean ups, and work in these locations must cease until decontamination and sanitization is complete.
  - c. The County Public Health Department must be notified immediately and any additional requirements per the County health officials must be completed, including full compliance with any tracing efforts by the County.

### Conclusion

Recognizing that the number of Covid-19 cases is still increasing but the rate of increase has slowed, health officials are mildly comfortable to help ease the economic pain this pandemic is causing. However, prudently, they are striving to ensure that construction sites do not become a source of transmission for the virus.

We will continue to keep you updated as events unfold.



**Daniel F. McLennon**  
415.394.6688  
[dfmc Lennon@smithcurrie.com](mailto:dfmc Lennon@smithcurrie.com)



**Matthew T. Porter**  
404.521.3800  
[mtporter@smithcurrie.com](mailto:mtporter@smithcurrie.com)